

**THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

MICHAEL P. AND SHELLIE GILMOR, et  
al.,

Plaintiffs,

vs.

PREFERRED CREDIT CORPORATION,  
et al.,

Defendants.

Case No. 4:10-cv-00189-ODS

**PLAINTIFFS' MOTION FOR RECONSIDERATION OR, ALTERNATIVELY,  
FOR AMENDMENT AND CERTIFICATION OF ORDER PURSUANT TO  
28 U.S.C. § 1292(b) FOR PURPOSES OF INTERLOCUTORY APPEAL**

Plaintiffs respectfully move the Court to reconsider its April 27, 2010 *Order and Opinion Denying Plaintiffs' Motion to Remand* (Doc. #48). As explained in the accompanying *Suggestions*, the *Order* reaches an erroneous conclusion as to the Court's subject matter jurisdiction and, respectfully, injects reversible error into these proceedings.

In the alternative, Plaintiffs request the Court to amend its *Order* so as to stay these proceedings and to certify it for interlocutory appeal pursuant to the provisions of 28 U.S.C. § 1292(b) so that Plaintiffs may seek permission from the United States Court of Appeals for the Eighth Circuit to appeal the *Order* and the question of whether, given the procedural posture in which this case was removed, 12 U.S.C. § 1819 confers federal jurisdiction of this controversy.

An immediate interlocutory appeal of the Courts' decision is particularly appropriate given the following: (1) the issue for which appellate review is sought addresses the Court's subject matter jurisdiction; (2) "[a]ll doubts about federal jurisdiction should be resolved in favor of remand to state court," *In re Prempro Products Liability Litigation*, 591 F.3d 613, 620 (8<sup>th</sup>

Cir. 2010); and (3) the candid acknowledgement by the Court in its *Order* that the issue of its subject matter jurisdiction “is a close one.” This case should not proceed in federal court in light of the above.

For these reasons, and for the reasons set forth in the accompanying *Suggestions*, Plaintiffs respectfully suggest that this Court should reconsider its April 27, 2010 *Order and Opinion Denying Plaintiffs’ Motion to Remand* or, alternatively, amend its *Order* so as to stay these proceedings and to certify it for interlocutory appeal pursuant to the provisions of 28 U.S.C. § 1292(b)

Dated: May 7, 2010

Respectfully Submitted,

WALTERS BENDER STROHBEHN  
& VAUGHAN, P.C.

*By /s/ R. Frederick Walters*

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the United States District Court for the Western District of Missouri, Western Division, on **May 7, 2010**, with notice of case activity to be sent electronically by the Clerk of the Court to all designated persons.

/s/ R. Frederick Walters